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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,203	06/15/2001	Leonard R. Bayer	HAR-003	8016

7590 01/26/2004

Kenneth J. LuKacher
South Winton Court
3136 Winton Road South, Suite 304
Rochester, NY 14623

EXAMINER

MCALLISTER, STEVEN B

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 01/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/882,203

Applicant(s)
Bayer et al

Examiner
Steven McAllister

Art Unit
3627



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Nov 17, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 17-39 is/are pending in the application.
- 4a) Of the above, claim(s) 1-15, 17-24, and 30-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 13 6) ☐ Other:

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/7/03 has been entered.

Claim Rejections - 35 USC § 112

2. Claims 25-29 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 25 recites "utilizing said information solely for market research". However, the specification and original claims, as understood by the examiner, do not describe that the information is used solely for market research in such a way to convey that the inventor had possession of the claimed invention.

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Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 25, 26, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henson (6,167,383).

Henson shows sending software from a network addressable site to user computers, the software comprising an user selectable form which when executed by the user computers selects the features of a product; displaying a total price in accordance with selected features; updating the total price when different features are selected; and returning information via the network to the server showing selections made. Henson does not show updating the price independently of the server. However, it is notoriously old and well known in the art to do so. For instance, it is notoriously old and well known in the art to send Java programs to the user computer to accomplish such tasks independent of the server. It would have been obvious to one of ordinary skill in the art to modify the method of Henson by doing so in order to lesson the volume of interactions with the server.

As to claim 26, it is noted that Henson shows features having subfeatures for selection and that the price varies according to these subfeatures.

As to claim 28, it is noted that no method step is claimed. Rather, only the type of information sent is specified. Additionally, it is noted that it is notoriously old and well known in the art to record the interim steps taken in a computer process. It would have been obvious to

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one of ordinary skill in the art to further modify the method of Henson by recording and sending the actions taken by the user including features selected and changes made in order to determine and improve system usability.

As to claim 29, it is noted that the recited element is directed toward the intended use of the information only and is not viewed as a limitation on the method.

Further, it is noted that it is inherent in the method of Henson that the information can be unassociated with any real purchase of the product, since users are not required to make a purchase once they have configured a system via the method and users often use the method to determine the price of a system having a certain configuration and fail to purchase the theoretical system.

Alternatively, it is notoriously old and well known in the system for the information to be unassociated with a purchase since the users do not always purchase the system that they configure. It would have been obvious to modify the system of Henson by allowing the information to be unassociated with a purchase in order to have more people use the configurator since they are not required to purchase a system, and in having more people use the system, make more sales.

4. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Henson in view of the well known prior art as applied to claim 25 above, and further in view of Ghahramani (5,808,908).

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Henson in view of the well known prior art shows all elements of the claim except measuring the elapsed time to complete the task. Ghahramani shows determining the elapsed time. It would have been obvious to one of ordinary skill in the art to further modify the method of Henson by determining the elapsed time as taught by Ghahramani in order to help measure and improve usability of the system.

Response to Arguments

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


Applicant argues that it would be disadvantageous to download a program. However, it is common for websites to download programs to the user's client.

Applicant further argues that Henson does not show recording the interim user steps. However, it is noted that recorded the steps is not claimed. Rather "returning information" (cl. 25) wherein the information comprises "data representing said selected features" selected "by the user" until the configuration is complete. It is noted that interim changes represented by changing or adding a feature and clicking "update price" are returned until the configuration is complete.

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Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052.


Steven B. McAllister

January 26, 2004